

Article - Criminal Procedure

[\[Previous\]](#)[\[Next\]](#)

§8–301.1.

(a) On a motion of the State, at any time after the entry of a probation before judgment or judgment of conviction in a criminal case, the court with jurisdiction over the case may vacate the probation before judgment or conviction on the ground that:

(1) (i) there is newly discovered evidence that:

1. could not have been discovered by due diligence in time to move for a new trial under Maryland Rule 4–331(c); and

2. creates a substantial or significant probability that the result would have been different; or

(ii) the State’s Attorney received new information after the entry of a probation before judgment or judgment of conviction that calls into question the integrity of the probation before judgment or conviction; and

(2) the interest of justice and fairness justifies vacating the probation before judgment or conviction.

(b) A motion filed under this section shall:

(1) be in writing;

(2) state in detail the grounds on which the motion is based;

(3) where applicable, describe the newly discovered evidence; and

(4) contain or be accompanied by a request for a hearing.

(c) (1) The State shall notify the defendant in writing of the filing of a motion under this section.

(2) The defendant may file a response to the motion within 30 days after receipt of the notice required under this subsection or within the period of time that the court orders.

(d) (1) Before a hearing on a motion filed under this section, the victim or victim's representative shall be notified, as provided under § 11-104 or § 11-503 of this article.

(2) A victim or victim's representative has the right to attend a hearing on a motion filed under this section, as provided under § 11-102 of this article.

(e) (1) Except as provided in paragraph (2) of this subsection, the court shall hold a hearing on a motion filed under this section if the motion satisfies the requirements of subsection (b) of this section.

(2) The court may dismiss a motion without a hearing if the court finds that the motion fails to assert grounds on which relief may be granted.

(f) (1) In ruling on a motion filed under this section, the court, as the court considers appropriate, may:

(i) vacate the conviction or probation before judgment and discharge the defendant; or

(ii) deny the motion.

(2) The court shall state the reasons for a ruling under this section on the record.

(g) The State in a proceeding under this section has the burden of proof.

(h) An appeal may be taken by either party from an order entered under this section.

[\[Previous\]](#)[\[Next\]](#)